

SENATE BILL NO. 416

INTRODUCED BY A. CURTISS

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO SUSPENSION OF A LICENSE FOR FAILURE TO COMPLY WITH A CHILD SUPPORT ORDER; PROVIDING THAT DURING A PERIOD OF TIME WHEN A DRIVER'S LICENSE IS SUSPENDED FOR NONPAYMENT OF CHILD SUPPORT, THE PERSON WHOSE LICENSE WAS SUSPENDED MUST BE ISSUED A RESTRICTED OR PROBATIONARY LICENSE ALLOWING THE PERSON TO DRIVE ONLY FOR OCCUPATIONAL PURPOSES, INCLUDING HOMEMAKING, AND FOR EMERGENCIES; PROVIDING THAT THE OBLIGOR'S AGREEMENT TO A PAYMENT PLAN TO PAY CHILD SUPPORT DOES NOT CONSTITUTE A WAIVER OF A RIGHT TO CONTEST A SUPPORT ORDER; AMENDING SECTIONS 40-5-704 AND 40-5-709, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-5-704, MCA, is amended to read:

"40-5-704. Suspension, denial, and nonrenewal of licenses. (1) Upon receipt of the notice of suspension of the license under 40-5-703(5), a licensing authority shall implement the suspension of the license by:

- (a) determining if it has issued a license to the obligor whose name appears on the notice;
 - (b) entering the suspension on the appropriate records;
 - (c) reporting the suspension as appropriate;
 - (d) making good faith efforts to deny recreational activity licenses for the next applicable license year;
- and
- (e) if required by law, demanding surrender of the suspended license.

(2) An order issued by a support enforcement entity under 40-5-703 suspending a license and the notice of suspension given under 40-5-703(5) must be processed by the licensing authority without an additional review or hearing involving the licensing authority concerning suspension of the license.

(3) Notwithstanding the provisions of any other law setting terms of suspension, revocation, denial, termination, or renewal of a license, an order issued by a support enforcement entity suspending a license must

1 be implemented by the licensing authority and continues until the support enforcement entity advises the
2 licensing authority that the suspension has been stayed or terminated. However, during the suspension period
3 of a driver's license, the obligor must be issued a restricted or probationary license allowing the person to drive
4 only for occupational purposes, including homemaking, and for emergencies.

5 (4) In the event that a license is suspended, any funds paid by the obligor to the licensing authority for
6 costs related to issuance, renewal, or maintenance of a license may not be refunded to the obligor.

7 (5) Unless an order staying suspension of a license is in effect, an obligor who continues to engage in
8 the business, occupation, profession, recreational activity, or other licensed activity while the obligor's license
9 is suspended under this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of
10 not less than \$250 or more than \$500 or by imprisonment in the county jail for a term not to exceed 6 months,
11 or both. Upon conviction of a second or subsequent violation, the obligor shall be punished by a fine of not less
12 than \$500 or more than \$2,000 or by imprisonment in the county jail for a term not to exceed 1 year, or both. The
13 support enforcement entity or the licensing authority may elect the remedy under this section or any other
14 remedy provided for engaging in a licensed activity without a license or while the license is suspended.

15 (6) The licensing authority is exempt from liability to the licensee for activities conducted in compliance
16 with this part.

17 (7) The licensing authority has no jurisdiction to modify, remand, reverse, vacate, or stay the order of
18 the support enforcement entity suspending a license.

19 (8) To the extent that inconsistencies exist between this part and the procedural requirements for
20 suspension of a license issued by the department, this part supersedes those requirements."

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22 **Section 2.** Section 40-5-709, MCA, is amended to read:

23 **"40-5-709. Nondisciplinary suspension for failure to pay child support.** Notwithstanding any other
24 provision of this title, the support enforcement entity has the authority to suspend a license or privilege to obtain
25 a license under this part without any action by the licensing authority. The licensing authority shall, upon receipt
26 of notice of suspension of the license under 40-5-703(5) from the support enforcement entity, suspend the
27 license or privilege to obtain a license of the named individual. The suspension must be nondisciplinary for
28 professional or occupational licenses, and the provisions of 2-4-631 do not apply. However, during the
29 suspension period of a driver's license, the obligor must be issued a restricted or probationary license allowing
30 the person to drive only for occupational purposes, including homemaking, and for emergencies."

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2 **NEW SECTION. Section 3. Agreement to payment plan not considered waiver of rights.** An obligor
3 who enters into a payment plan approved by the support enforcement agency does not waive a right to contest
4 the validity of a registered or nonregistered order requiring payment of support. An obligor who has agreed to
5 a payment plan but challenges the validity of a support order shall fulfill the requirements of the plan while
6 contesting the order.

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8 **NEW SECTION. Section 4. Codification instruction.** [Section 3] is intended to be codified as an
9 integral part of Title 40, chapter 5, part 7, and the provisions of Title 40, chapter 5, part 7, apply to [section 3].
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11 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.
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13 **NEW SECTION. Section 6. Retroactive applicability.** [This act] applies retroactively, within the
14 meaning of 1-2-109, to a payment plan, as defined in 40-5-701, agreed to prior to [the effective date of this act].
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